

REMARKS

This is a full and timely response to the non-final Office Action mailed December 18, 2003. By this response, Applicant has cancelled claims 8-9 and 36-38 without prejudice or disclaimer, has amended claims 1, 10-11, 16, 18-22, 35, 39, 48, and 55-59, and has added new claims 67-68. Reconsideration in light of the above amendments and following remarks are courteously requested. Claims 1-7 and 10-68 (3 independent and 60 dependent) remain pending in the application, with claims 1, 35 and 67 being independent claims. No new matter has been added, and no fee or extension of time is believed to be required by this Response. Should this Application require any fee or extension of time, however, please consider this as a petition for such extension and as authorization to debit Deposit Account No. 50-2091 for any fees as may be required to prevent abandonment of this application.

The Office Action rejected all of the prior-pending claims under Sections 102(a) and 103, citing WIPO Publication No. WO 00/14987 ("Bastian") alone and in combination with U.S. Patent No. 6,173,159 ("Wright"). Applicant respectfully traverses each of the rejections in that the cited references fail to disclose each and every element of the amended claims. In particular, no reference discloses at least the multi-mode aspects recited in the present claims.

The primary reference, Bastian, describes a communications system for use on an aircraft that allows passengers to send and receive electronic data. As noted by the Office Action, the Bastian system relays data between an airborne server and a server on the ground. Unlike the presently claimed invention, however, Bastian's disclosure is limited to a single mode of transferring data. Indeed, Bastian's disclosure is focused primarily on communications within the aircraft (i.e. between the user and the airborne server), and provides little detail as to the particular mode of communication between the airborne and terrestrial servers.

More particularly, Bastian describes that a "second node" on the aircraft is connected to the telephone system with a modem connection such as a CEPT-E1 connection (see Bastian, page 7, lines 16-21, cited in the Office Action). While the connection is not further described in the Bastian reference, "CEPT-E1" refers to a commonly-known type of cabin interface for satellite communications. Bastian's only other mention of communications links is found at page 25, lines 1-6, where INMARSAT, Globalstar and Iridium satellite links are briefly mentioned. Note, however, that Bastian only mentions each of these communications links in singular terms; it does not mention that multiple modes of data communication could be used,

nor does it contemplate selecting between a plurality of modes (e.g. batch, immediate, etc.) for transferring data between the servers. Bastian further does not contemplate transfers of data via multiple connections (e.g. satellite, radio, gatelink), as contemplated by several of the dependent claims presented herein (see, e.g. claim 20). Even to the extent that Bastian does contemplate multiple links (see FIG. 5 and associated text), these links are simply identical paths to different terrestrial servers. The Wright reference similarly fails to disclose at least these elements.

In contrast to the Bastian reference, claim 1 now recites *a communications system configured to operate in a plurality of wireless modes to thereby wirelessly transfer e-mail between said first server and said second server, wherein the plurality of wireless modes comprises an immediate mode and a batch mode, and wherein the wireless mode used to transfer email between the first server and the second server is selected to minimize the overall cost of operating the e-mail system.* Bastian does not relate to selecting between batch and intermediate processing modes in any way, nor does it disclose minimizing the overall cost of operating the e-mail system with this selection. While the Office Action previously cited page 29 of the Bastian reference as disclosing “an offer” that presented the user with delivery options, it is clear from this language that this feature simply relates to allowing airborne users the option of receiving attachments via the wireless link, or waiting to retrieve the attachments later after they depart the aircraft (see lines 15-20, describing the “option” as a “take it or leave it”-type scheme). Accordingly, this language relates to uplink of attachments, and not to providing a plurality of modes for transmitting messages from the aircraft to the ground.

Similarly, claim 35 now recites the step of *selecting one of a plurality of communications modes for the message, wherein the plurality of communications modes comprises a batch mode and an immediate mode, and wherein the intermediate mode is selected if the message is an urgent message.* Bastian does not disclose selecting between batch or immediate mode processing, as discussed above.

The new claims, claims 67-68, similarly recite *transmitting the email message using the immediate mode if the sending priority is high, and otherwise transmitting the email message using the batch mode to thereby minimize the cost of transferring the message.* As described above, neither this element nor the elements of claim 68 (e.g. charging the user differing fees for the immediate and batch mode processing) are disclosed in either reference of record.

Conclusion

Based on the above, independent claims 1, 35 and 67 are patentable over the citations of record. The dependent claims are also submitted to be patentable for the reasons given above, and because each recites features which are patentable in their own right. Applicant therefore submits that the present application is in condition for allowance. Favorable reconsideration and withdrawal of the objections and rejections set forth in the above-noted Office Action, and an early Notice of Allowance are requested.

If the Examiner has any questions, comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

Respectfully submitted on behalf of assignee

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